



**Nyange v Asusa Transporters Limited (Appeal E271 of 2024)  
[2025] KEELRC 529 (KLR) (13 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 529 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
APPEAL E271 OF 2024  
K OCHARO, J  
FEBRUARY 13, 2025**

**BETWEEN**

**SYLIVESTER MZAE NYANGE ..... APPELLANT**

**AND**

**ASUSA TRANSPORTERS LIMITED ..... RESPONDENT**

**RULING**

1. Through the application dated 7<sup>th</sup> January 2025, the Appellant/Applicant sought for a stay of execution of the ruling and consequential orders issued on 4<sup>th</sup> December 2024 in CM-ELRC E007/2022 – *Sylvester Mzae Nyagha -vs- Asusa Transporters Ltd* pending the hearing and determination of the appeal herein.
2. The application is premised on the grounds set out on the face of the application and those on the supporting affidavit sworn on the 7<sup>th</sup> January 2025.
3. Despite being served with the application, the Respondent did not file any document in opposition thereto.
4. I have carefully considered the grounds in support of the application and the more importantly that through ELRCA E134 of 2024, the Respondent assailed the judgment of the Learned Trial Magistrate in the above stated lower court matter, same judgment which the Learned Magistrate did subsequently, as the appeal was pending, set aside following an application by the Respondent, the appeal has since been dismissed as being an abuse of the court process.
5. By reason of the foregoing, and being careful not to appear to be prejudging the pending appeal, I conclude that the appeal is not an idle appeal, and if the orders sought is not granted, if successful, it shall be rendered nugatory and an academic exercise.
6. Consequently, I allow the application of the following terms:-



- a. Pending the hearing and determination of the appeal herein, the proceedings in CM- ELRC E007/2022 are hereby stayed.
- b. The applicant to file and serve the record of appeal within 30 days of this ruling.

**DATED SIGNED AND DELIVERED THIS 13<sup>TH</sup> DAY OF FEBRUARY 2025**

**OCHARO KEBIRA**

**JUDGE**

